

**\*\* E-filed January 28, 2011 \*\***

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Attorneys for Defendants  
SELECT BRANDS, INC. and  
TARGET CORPORATION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS SPILSBURY, JR.

Plaintiff,

vs.

TARGET CORPORATION, SELECT  
BRANDS, INC, and DOES 1-25, inclusive,

Defendants.

Case No.: CV 09 5955 JW

**NOTICE OF WITHDRAWAL OF  
MOTION FOR PROTECTIVE ORDER  
SCHEDULED FOR HEARING ON  
FEBRUARY 1, 2011**

Complaint Filed: September 22, 2009

WHEREAS, on November 17, 2010, after engaging in extensive meet and confer efforts, Defendants Select Brands, Inc. and Target Corporation filed a Motion for Protective Order, along with a Request to Set the Hearing on Shortened Time;

WHEREAS, on December 24, 2010, the Court denied the Request to Set the Hearing on Shortened Time and set the Hearing Date on Defendant's Motion for Protective Order on February 1, 2011;

WHEREAS, on January 11, 2011, after the parties engaged in exhaustive meet and confer efforts for several months reached a stipulation addressing some of the issues set forth in Defendants' Motion for Protective order;

WHEREAS, on January 18, 2011, the Court denied the proposed order (Denial of Stipulation, Docket #75).

1 WHEREAS, on January 25, 2011, Defendants Select Brands, Inc. and Target Corporation  
2 withdrew their Motion for Summary Judgment without prejudice, which was scheduled to be heard  
3 February 28, 2011, based upon Plaintiff disclosing new information on January 21, 2011 (Docket  
4 #90);

5 WHEREAS, the withdrawal of Defendants' Motion for Summary Judgment has rendered  
6 moot the majority of the issues raised in Defendants' Motion for Protective Order. Accordingly,  
7 Defendants believe withdrawing the Motion for Protective Order is appropriate;

8 WHEREAS, on January 28, 2011, counsel for Defendants prepared and executed a  
9 Stipulation and Order to Withdraw Defendants' Motion for Protective Order and sent it to  
10 Plaintiff's counsel (a copy is attached hereto);

11 WHEREAS, after waiting four hours, Plaintiff's counsel has not returned the proposed  
12 Stipulation;

13 Defendants SELECT BRANDS, INC. and TARGET CORPORATION, by and through  
14 their attorney of record, hereby withdraw their Motion for Protective Order scheduled for hearing  
15 on February 1, 2011, without prejudice to re-filing the motion with regard to issues that remain in  
16 dispute.

17 STONE & ASSOCIATES

18  
19 January 28, 2011

20 By: 

JULIET MACMILLIN LOMPA  
Attorneys for Defendants

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11 SELECT BRANDS, INC. and  
12 TARGET CORPORATION

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 THOMAS SPILSBURY, JR.

16 Plaintiff,

17 vs.

18 TARGET CORPORATION, SELECT  
19 BRANDS, INC, and DOES 1-25, inclusive,

20 Defendants.

Case No.: CV 09 5955 JW

**STIPULATION AND ORDER RE:  
WITHDRAWAL OF MOTION FOR  
PROTECTIVE ORDER SCHEDULED  
FOR HEARING ON FEBRUARY 1,  
2011**

Complaint Filed: September 22, 2009

21 IT IS HEREBY STIPULATED, AGREED AND JOINTLY REQUESTED by the parties,  
22 by and through their respective attorneys of record, that Defendants' Motion for Protective Order  
23 scheduled for hearing on February 1, 2011 be withdrawn, without prejudice to re-filing the motion  
24 with regard to issues that remain in dispute.

25 IT IS SO AGREED,

CORSIGLIA McMAHON & ALLARD, LLP

26 January \_\_, 2011

By: \_\_\_\_\_

TIMOTHY D. McMAHON  
Attorneys for Plaintiff

27 IT IS SO AGREED,

STONE & ASSOCIATES

28 January 28, 2011

By: Juliet Macmillin Lompa

JULIET MACMILLIN LOMPA  
Attorneys for Defendants



Defendants' motion for a protective order (Docket No. 53) is TERMINATED without prejudice per Defendants' request (Docket No. 91), and the February 1, 2001 hearing is VACATED.

~~PURSUANT TO STIPULATION, IT IS SO ORDERED,~~

Dated: January 28, 2011

By: \_\_\_\_\_

HOWARD E. LLOYD  
United States Magistrate Judge